Fort Smith, NT photo taken by: Tracy Bock Staff Lawyer

2010/2011
Report of the LEGAL SERVICES BOARD OF THE NWT

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THE BOARD OF DIRECTORS

Board Members

The Minister of Justice appoints members of the Board of Directors in accordance with section 3 of the *Legal Services Act*. The *Act* provides for representation on both a regional and interest basis. By convention the various regions are represented on the Board. In accordance with that section, the 2010/11 Board was composed of the following:

Ron Holtorf	Chair, representing the Deh Cho
Roy Fabian	Representing the South Slave to August 2010
Mary Adele Rabesca	Representing the Tli Cho and North Slave communities to December 2010
Giselle Marion	Representing the Tłı̨chǫ and North Slave communities from December 7, 2010
Karan Shaner	Representing the Public Service
Louis Sebert	Representing the Law Society
Sandra Suliman	Representing the Beaufort Delta
Roberta Hamilton	Representing the South Slave From February 3, 2011

Mandate of the Board of Directors

The Board sets policy, makes recommendations to the Minister with respect to the hiring of the Executive Director, administers legal aid clinics, maintains a panel of private lawyers for eligible clients for criminal, family, and civil matters and hears appeals in cases where legal aid has been denied, or lawyers feel their accounts have been reduced without justification. Additional powers are prescribed under section 11 of the *Legal Services Act*.

LEGAL SERVICES BOARD

The Government of the Northwest Territories has been responsible for providing legal since 1971. Previously, the Government of Canada was responsible for the administration of justice in the NWT. The Legal Services Board was established and given responsibility for providing legal aid, court worker services and public legal education and information services throughout the Northwest Territories.

Today, the Board operates four legal aid clinics; three clinics, two in Yellowknife and one in Inuvik, provide both family and criminal law services and a second clinic in Yellowknife provides family and poverty law services. The clinics serve clients in all the communities in the NWT.

The Legal Services Board is established as a corporation by the *Legal Services Act*, RSNWT 1988, c. F-4. The Board reports to the Minister of Justice and is a public agency listed in Schedule A to the *Financial Administration Act*, RSNWT 1988, c. F-4. All Board employees are members of the GNWT Public Service.

Yellowknife Court House photo taken by: Tracy Bock Staff Lawyer

Legislative Objectives

The objects of the Board are set out in section 7 of the *Legal Services Act*:

1. To ensure the provision of legal services to all eligible persons;

2. To ensure that the legal services provided and the various systems for providing those services are the best that circumstances permit; and

3. To develop and co-ordinate Territorial or local programs aimed at:
   (a) reducing and preventing the occurrence of legal problems; and
   (b) increasing knowledge of the law, legal processes and the administration of justice.

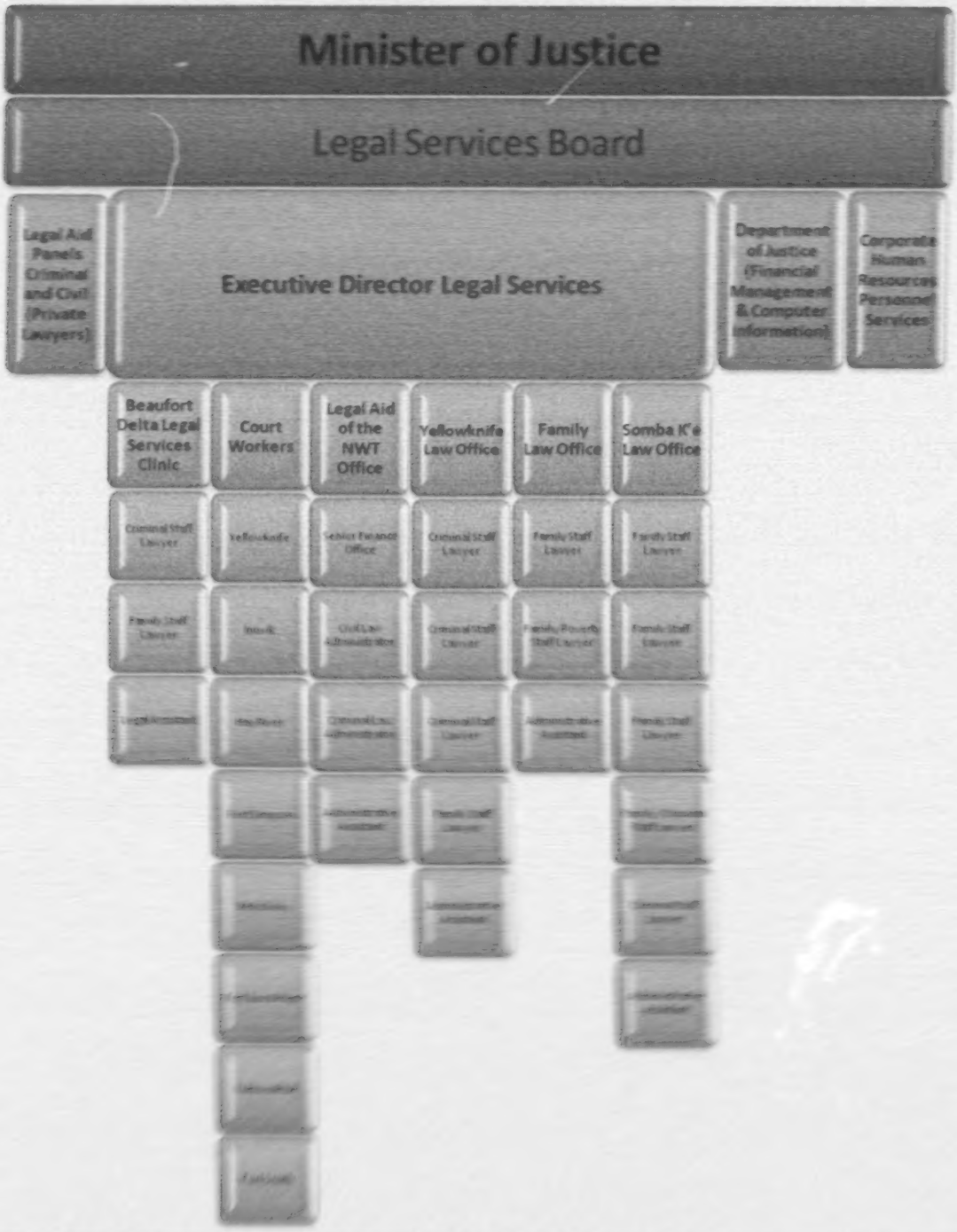
Board Meetings

The Legal Services Board met in Yellowknife on two occasions:

May 5-6, 2010
October 25-26, 2010

ORGANIZATIONAL STRUCTURE

The following organization chart reflects the structure of the Legal Services Board as of March 31, 2011.


Minister of Justice
Legal Services Board
Legal Aid Panels Criminal and Civil (Private Lawyers)
Executive Director Legal Services
Department of Justice (Financial Management & Computer Information)
Corporate Human Resources Personnel Services
Beaufort Delta Legal Services Clinic
Court Workers
Legal Aid of the NWT Office
Yellowknife Law Office
Family Law Office
Somba K'e Law Office

COURT WORKER PROGRAM

Mackenzie River ferry crossing photo taken by: Sally Card, Legal Aid Adm.

In the Northwest Territories, court workers help people who come into contact with the justice system. Their primary duty is to help clients apply for legal aid and ensure the applications and supporting documentation are provided to the Legal Aid office. Court workers also provide general information and referrals to services inside and outside the justice system. They are an important liaison between clients and lawyers and the justice system particularly in more remote communities which do not have the benefit of resident lawyers and where justice is accessible through the court circuit system.

Some court workers may also represent individuals without a lawyer in Justice of the Peace Court. They generally provide assistance with guilty pleas, the resulting sentencing hearings and occasionally with simple trials. They also assist legal counsel in Territorial and Youth Court by ensuring clients and witnesses attend court, helping with translation and communication, gathering information, and interviewing clients. On occasion court workers may help a client with a guilty plea and sentencing in Territorial Court.

Court workers also play a direct role in public legal education through their daily contact with clients, providing information and guidance with respect to the court system and through their referral to other services. Court workers provide legal education through their work with school classes, justice committees, and promote the program by attending at community career fairs, putting public announcements on radio and providing information at seminars and programs in their communities. Some court workers also sit on community inter-agency committees.

The Legal Services Board has eight court workers positions. Seven of those are located in communities outside Yellowknife and provide services in all regions of the NWT. All are GNWT employees and members of the public service. The Aboriginal Court worker Program has had Federal financial support since 1973.

PUBLIC LEGAL EDUCATION & INFORMATION

The Legal Services Board is responsible for Public Legal Education and Information in the Northwest Territories. Public legal information is disseminated in a number of formal and informal ways.

The Board worked with the Department of Justice to produce the Family Law Manual which provides comprehensive information on family law matters in the NWT. The volume has been distributed widely throughout the NWT and is also available on line through the Department of Justice website. The court workers were provided training to allow them to assist people to use the book. The demand for this manual both in hardcopy and electronically has been significant.

The Board and the Department have and will continue to produce brochures based on specific topics included in the larger manual. These will also be available in French and work will be ongoing to make them available in some aboriginal languages.

Booklets providing advice on charge and arrest were produced and distributed in 2010.

People requiring general legal information are being referred to regional court workers who are able to either provide the information required or make the appropriate referrals.

Staff lawyers are providing legal information on an ongoing basis to callers and those referred by court workers.

Tuktoyaktuk, NT photo taken by: Tracy Bock Staff Lawyer

Court workers, and the staff and lawyers at our legal aid clinics routinely provide basic legal information. In addition, the Board provides pamphlets about individual rights and remedies, court proceedings, and local resources available to its clients.

LEGAL AID COVERAGE

Youth Applications – *Youth Criminal Justice Act (Canada), Youth Justice Act (NWT)*

Legal services are generally provided to financially eligible youth charged with offences under the *Criminal Code* and who are required to make an appearance before a Territorial Youth Court Judge or if a matter is brought before the NWT Supreme Court or Court of Appeal. The Board does assess family income when looking at eligibility. On occasion, legal aid coverage may be extended to cover matters in the Justice of the Peace Court.

Legal aid coverage is not provided for youth for criminal or other statutory offences where the matter(s) are proceeding by way of summary conviction unless:

1. There is a reasonable possibility that upon conviction the youth may be incarcerated by way of open or closed or secure custody;

2. There is a reasonable possibility that upon conviction, the youth's livelihood may be prejudiced; or

3. There exist, in the opinion of the Executive Director, special circumstances.

Adult Applications – *Criminal Code*

Although an applicant may be financially eligible for legal aid, the Board or Executive Director can refuse to provide legal aid coverage for certain offences as set out in the Act and Regulations.

Presumed Eligibility

Presumed eligibility arises only in the context of criminal law. Clients who first appear in Territorial court are presumed eligible for legal aid and are provided assistance with preliminary or straightforward matters that duty counsel can deal with in a summary fashion. This includes guilty pleas and non-complex sentencing hearings. If the lawyer determines that the matter requires a preliminary inquiry, trial or a more complex sentencing, the client is told to apply for legal aid to have a lawyer appointed.

Civil Applications

The *Act* authorizes the provision of legal aid services on a discretionary basis for some civil matters. The *Act* and *Regulations* specify that certain civil cases are not covered. The Executive Director may refuse to authorize legal aid if the civil case is of the type when a lawyer would ordinarily agree to act on a contingency basis.

Examples of civil related matters that have received legal aid coverage: workers' compensation appeals, residential tenancy appeals, and wrongful dismissal in certain cases.

Family Law Applications

Legal aid is generally provided to financially eligible applicants in matters involving family breakdowns when there are issues relating to children, spousal support, family violence or in matters relating to child protection.

After a client completes an application for legal aid assistance involving a family law matter, a request goes out to one of the staff lawyers or a member of the family law panel for a legal opinion. The lawyer must advise the Legal Services Board on the merits of the matter. If the opinion is that there is no merit in proceeding, the applicant will receive a Notice of Denial of Legal Aid and an explanation of the reason for the denial.

Approved matters are usually assigned according to the date of application. An exception is made, and matters are given priority in assignment, when the client is facing a court date, the matter involves family violence or the client is facing child protection proceedings.

Residency and Reciprocity

A person who is not ordinarily resident in Canada is not eligible for legal aid coverage except in relation to charges under two federal Acts.

The Legal Services Board of the NWT is a participant in the Inter-Provincial Reciprocity Agreement that allows legal aid coverage to be extended to applicants from any jurisdiction that require assistance with a civil or family matter arising in another Canadian jurisdiction. The costs of providing the service are borne by the legal aid plan in the jurisdiction where the matter is to be heard. The NWT program uses this service in the family law area.

FINANCIAL ELIGIBILITY

Legal Aid Applications

People must complete an application to receive legal aid. The Board uses standard forms and court workers take the applications in person or by telephone. Applicants are usually required to provide detailed financial information with backup documents. This information includes a statement of income for the applicant and anyone living in the household plus a detailed statement of expenses, liabilities, debts, and assets. This information is used to determine an individual's eligibility for legal aid.

Board employees review applications in detail to determine the applicant's financial eligibility. Eligible applicants are assigned duty counsel for criminal matters or go into a rotational assignment process for family and civil law matters. Applicants who are not financially eligible are sent a notice of denial. All applicants can appeal a denial to the Executive Director and then to the Legal Services Board.

In some cases, using criteria set out in the *Act* and *Regulations*, the staff may determine that an applicant can make a contribution to the cost of their legal aid services. A conditional authorization for legal aid is given to the applicant requiring a contribution in order to receive legal aid. Usually applicants have a set time period to make their contributions. Some applicants are assessed a contribution to be paid on the completion of their file as it is expected there will be a financial gain for the client at that time. In cases involving property division, applicants maybe subject to a full recovery of fees and disbursements incurred on their behalf.

Contributions and recoveries are deposited into the Government of the NWT Consolidated Revenue Fund and are not used to directly offset the cost of legal aid.

Financial Eligibility for Youth, Minors and Infant Children

In determining whether a youth, as defined by the *Youth Criminal Justice Act*, (Canada) (12 years of age but less than 18 years of age), or a minor, within the meaning of the *Age of Majority Act*, is eligible for legal aid, the Legal Services Board must consider the financial eligibility criteria of the youth's parents or guardians. The Board does exercise discretion when making a determination. For example, if a youth or minor's interests conflict with that of the parent(s) then the Board will provide legal aid services even if the youth may not be financially eligible.

The Legal Services Board has an arrangement with the Director of Child and Family Services, Department of Health and Social Services, to recover the costs of appointing legal counsel for children when the Court has ordered that the children require their own lawyer in child protection proceedings under the *Child and Family Services Act*.

LEGAL AID ASSIGNMENTS

Panels

The *Legal Services Act* requires work be assigned to members of the Panel in rotation on a fair and equitable basis. The Executive Director assigns approved applicants a lawyer from the Legal Aid Panel. Lawyers located in communities other than Yellowknife get priority for legal aid assignments in their community and the surrounding area for reasons of economic efficiency.

Territorial Court in Tuktoyaktuk, NT photo taken by: Tracy Bock Staff Lawyer

Choice of Counsel

Applicants do not get to choose a lawyer unless they are charged with offences for which the maximum penalty, if convicted, is life imprisonment. However, there is no choice of counsel where an applicant is charged with break and enter under the *Criminal Code* or a trafficking offence under the *Controlled Drugs & Substances Act* (CDSA) where life imprisonment is the maximum sentence. An approved applicant who has choice of counsel can choose any lawyer resident in the Northwest Territories who is on the panel and willing and able to take the case.

Circuit Counsel

The *Legal Services Act* requires the Board to have at least one lawyer (circuit counsel) accompany the Supreme and Territorial Court on all circuits where a lawyer may be required for the delivery of legal aid on the circuit. Applicants for such services are subject to the same criteria as all other applicants who need legal services.

LEGAL SERVICES CLINICS

The Board received funding from the GNWT to add three lawyers to its staff lawyer complement; two in 2010/11 and a third in 2011/12.

Yellowknife Law Office

The Yellowknife Law and was staffed during this year with three criminal lawyer and one articling student. The staff lawyers provide services throughout the NWT.

Beaufort Delta Legal Services Clinic

The Beaufort Delta Legal Services Clinic operates in Inuvik and provides services to all communities in the region. This year it was staffed with one family lawyer. Criminal law services in the region were provided by travelling defence counsel on all circuits.

Family Law Clinic

The Family Law Clinic in Yellowknife was staffed with two lawyers and one legal secretary. The staff lawyers provide services exclusively in the family law area to clients throughout the NWT.

Somba K'e Law Office

This office opened in the spring of 2010. It was staffed this year with one criminal lawyer, four family lawyers and one legal secretary. The staff lawyers provide services to clients throughout the NWT.

POVERTY LAW PROGRAM

In August of 2010 the Board started a poverty law program offering services throughout the NWT. The Board recognized that there was a need for legal services to address the problems experience by those living in poverty. These problems are often a factor exposing people to the justice system in both the family and criminal law areas. The plan was to assist people dealing with issues relating to housing, landlord and tenant disputes, CPP including disability matters, employment insurance matters, Workers' Compensation claims, debts, wills advice, mental health and guardianship applications, child protection matters and elder abuse. These are matters experienced daily by many residents of the NWT and a gap exists for those who seek assistance in dealing with these matters.

The Board hired a lawyer to provide services in both the poverty and family law areas. The service was promoted gradually and assistance was initially provided

through a drop in clinic in Yellowknife and telephone contact from elsewhere. By early 2011 the lawyer was providing close to nine hours a week of services and up to 15 hours a week by the end of the fiscal year. By then plans were in place to expand the program to a travelling clinic in 2011/12.

APPEALS

Some decisions made by the Executive Director may be subject to an appeal to the Board. If an applicant is assessed a contribution or denied legal aid, the applicant can appeal the decision by providing written notice of his/her intention to appeal and the Executive Director shall bring the matter before the Board for an appeal hearing.

Lawyers also have the right to appeal the Executive Director's taxation of an account. Written notice is required and the Executive Director is required to bring the matter to the Board for an appeal hearing. There is no right of appeal from the Board's decision.

The Board heard five eligibility and one taxation appeal this period. One other appeal was resolved prior to a hearing. Of the matters considered by the Board the taxation appeal was denied, one eligibility matter was resolved during the hearing, three were denied and one was granted on conditions imposed on the appellant.

ADMINISTRATION AND FINANCE

Funding for the Legal Services Board

The Legislative Assembly allocates money to the Legal Services Board to administer the *Legal Services Act* and provide legal services and other programs under the *Act*. The GNWT receives funding for the Legal Aid Program, aboriginal court workers, and public legal education through the Access to Justice Agreement with the Federal Government. Federal funding has been set at $1,972,327 since 2006/07. Additional special projects have been funded by the Federal Government from time to time. Any deficits incurred by the Legal Services Board are covered by the GNWT Department of Justice. Any change in that arrangement would mean requesting a supplementary appropriation from the Legislative Assembly.

Court Party in Tuktoyaktuk, NT photo taken by: Tracy Bock Staff Lawyer

The GNWT committed additional funding to increase the number of staff lawyer positions to a total of thirteen in 2010/11 and to fourteen in 2011/12. The GNWT covered sixty nine (69) percent of the costs of running the legal aid program this year.

The LSB does not have a budget for office space except for the office in Tuktoyaktuk. Rental and maintenance for all other offices is under the auspices of the Department of Public Works and Services.

Personnel

The staff of the Legal Services Board are appointed and employed under the *Public Service Act* and are employees of the GNWT Department of Justice. The Department of Human Resources provides personnel services to the Board.

Financial Services

Financial services are provided by the Department of Justice. Since the Board does not hold separate funds, it is not audited separately from the Department of Justice. An annual independent audit is completed for compliance with the Access to Justice Agreement with Canada.

LEGAL AID TARIFF*

Experience	Hourly Rates ($)	Daily Rates($)
Student at law	53	307
Less than 4 years	81	465
4-6 years	93	576
7-10 years	114	681
11 & more years	135	805

The rates are the same regardless of the level of court.

STAFF LAWYER SALARIES

Staff lawyers, as GNWT employees, are paid according to the pay scales established for GNWT legal counsel. These rates are based on legal experience and were as follows for 2010-2011.

Legal Counsel I	85,683 – 99,782
Legal Counsel II	93,815 – 109,181
Legal Counsel III	102,687 – 119,516
Legal Counsel IV	112,301 – 130,709
Legal Counsel V	117,488 – 136,734

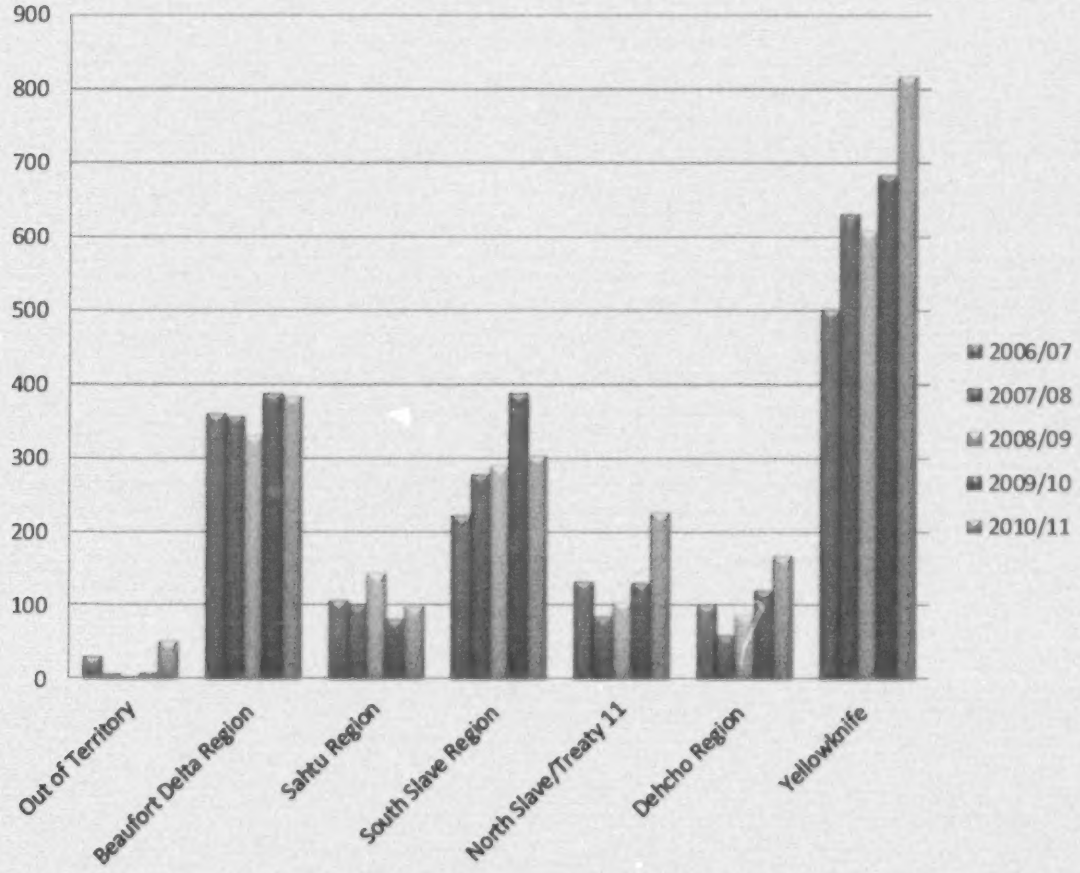
Financial Report 2010/11

	Actual Expense	2010/11 Main Estimate	Year Variance
Legal Services Board Administration			
Staff Wages and Benefits	662,848	540,000	-122,848
Operations & Maintenance Expenses	54,951	38,000	-16,951
Public Education	3,121		-3,212
Total Administration	720,920	578,000	-142,920
Court Workers			
Staff Wages and Benefits	789,022	1,022,000	232,778
Operations & Maintenance Expenses	34,799	32,000	-72,547
Travel	82,572	59,000	-23,572
Total Court Workers	906,393	1,113,000	206,607
Legal Aid Staff Lawyers			
Staff Wages & Benefits	1,725,822	1,913,000	187,178
Operations, Maintenance	208,260	169,000	-39,260
Total Legal Aid Staff Lawyers	1,934,082	2,082,000	147,918
Legal Services Board			
Board Expenses	13,148	-	-13,148
	13,148	-	-13,148
Legal Aid Fees & Disbursements			
Legal Aid Fees/Disbursements	1,504,091	1,624,000	119,908
Circuit Travel costs (includes staff lawyers)	344,256	224,000	-120,256
Total Legal Aid Fees & Disbursements	1,848,347	1,848,000	-,348
TOTAL	5,422,890	5,621,000	198,109

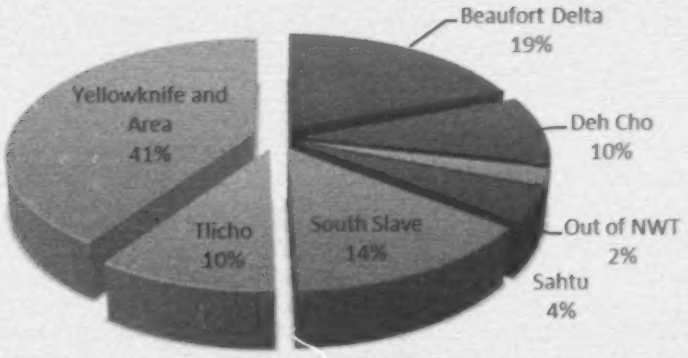
STATISTICAL REPORTS FOR 2010/11

Number of Applications Received

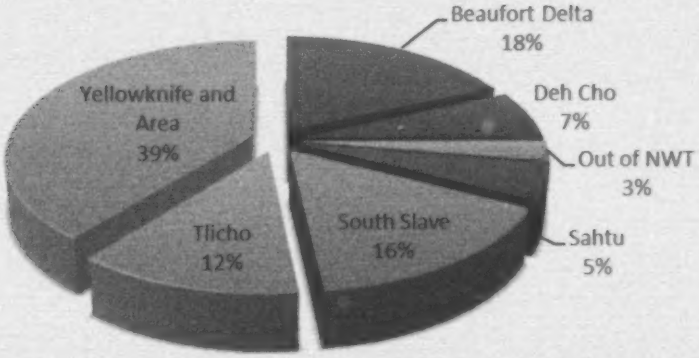
	2006/07	2007/08	2008/09	2009/10	2010/11
Out of Territory	31	7	5	8	52
Beaufort Delta Region	361	357	331	388	384
Sahtu Region	106	100	144	81	99
South Slave Region	222	277	289	387	303
North Slave/Treaty 11	133	86	104	131	226
Dehcho Region	101	59	88	120	168
Yellowknife	501	632	609	685	818



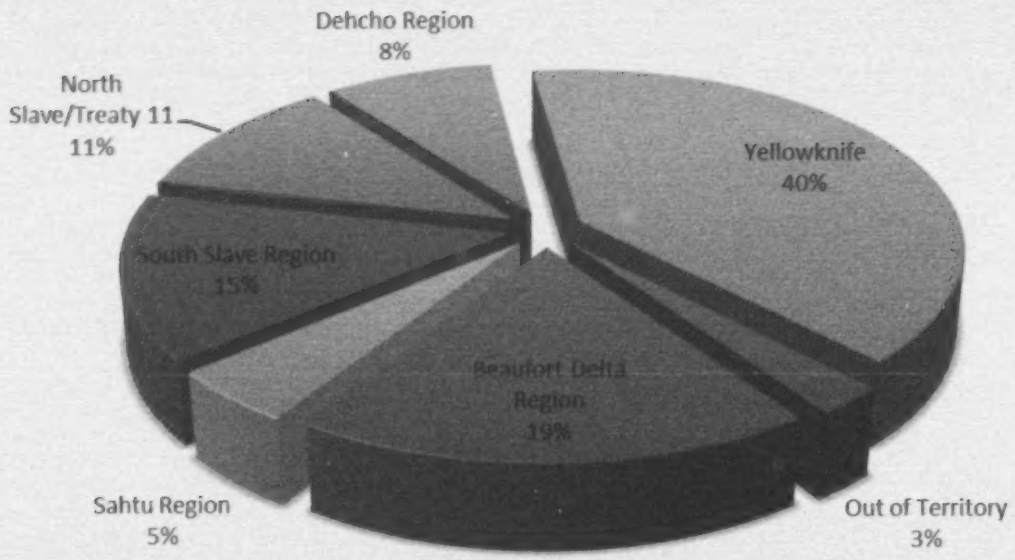
Criminal Applications 2010/2011



Family/Civil Applications 2010/2011



By Regions	Criminal Applications	Family/Civil Applications
Beaufort Delta	215	169
Deh Cho	106	62
Out of NWT	26	26
Sahtu	50	46
South Slave	158	145
Tlicho	111	115
Yellowknife and Area	453	365

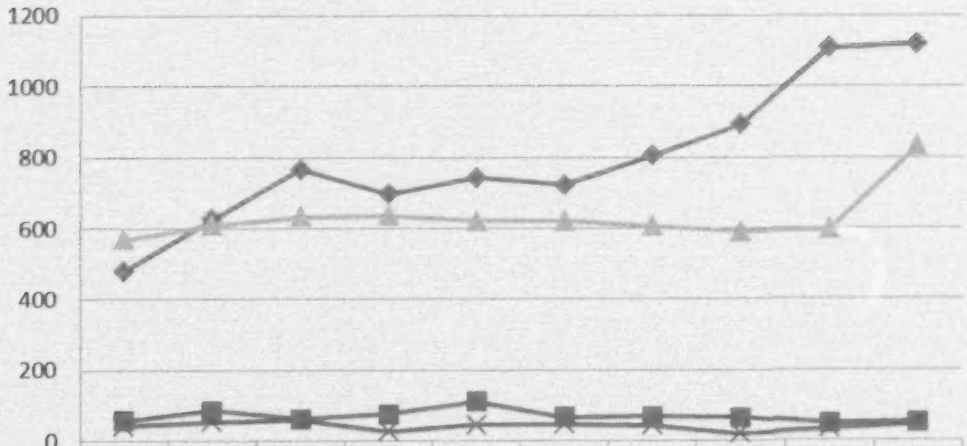


Origin Of Application for 2010/11

Out of Territory	52
Beaufort Delta Region	384
Sahtu Region	99
South Slave Region	303
North Slave/Treaty 11	226
Deh cho Region	168
Yellowknife	818

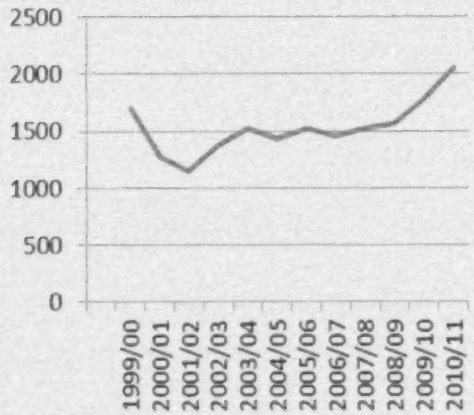
**Out of Territory includes: 4 criminal appeals, 24 criminal and 24 family matters

Number of Applications Received by Case Type. Fiscal years 2001/02 to 2010/11



	01/02	02/03	03/04	04/05	05/06	06/07	07/08	08/09	09/10	10/11
Adult Criminal	479	626	766	696	742	721	804	892	1108	1119
Youth Criminal	57	86	62	75	111	67	69	66	48	52
Family	569	609	633	636	621	621	606	591	595	832
Civil	41	53	61	26	45	46	44	20	34	47

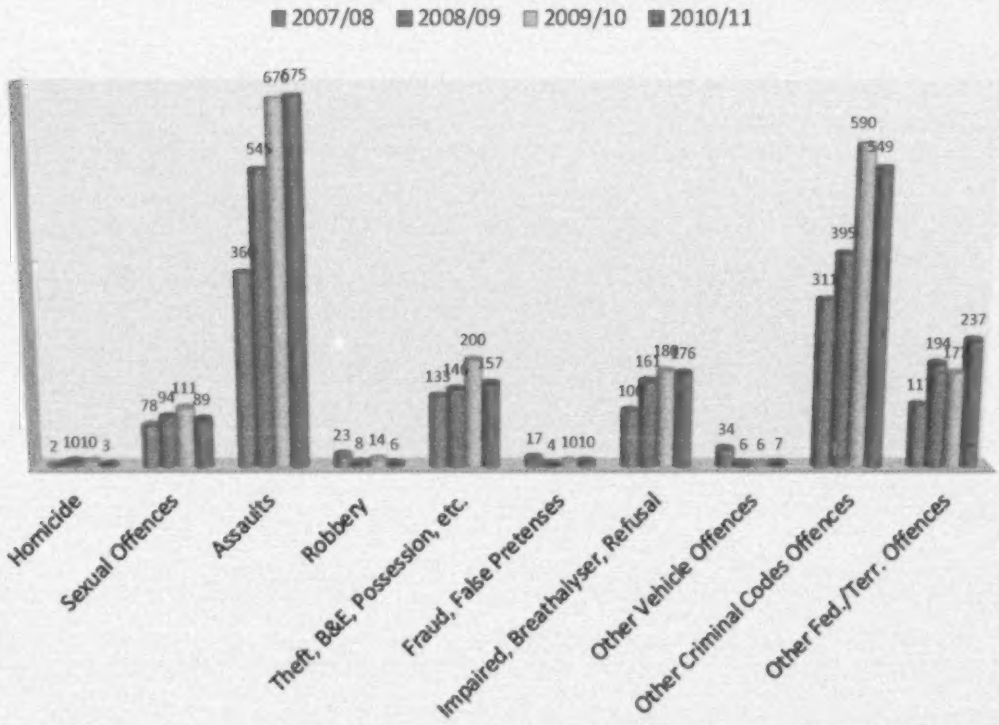
Applications Received



Fiscal Year	Applications Received
1999/00	1709
2000/01	1277
2001/02	1146
2002/03	1374
2003/04	1522
2004/05	1435
2005/06	1519
2006/07	1455
2007/08	1518
2008/09	1569
2009/10	1785
2010/11	2050

Note: the change to a new system in 10/11 may have produced an over estimate in the Family applications.

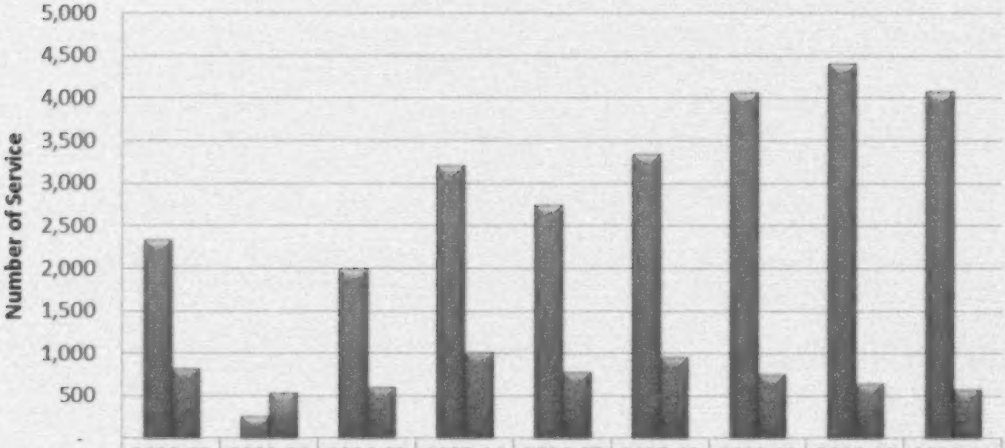
BRYDGES SERVCES NUMBER OF CALLS BY TYPE OR MATTER/ADULT/YOUNG OFFENDER



	2007/08	2008/09	2009/10	2010/11
Homicide	2	10	10	3
Sexual Offences	78	94	111	89
Assaults	360	545	670	675
Robbery	23	8	14	6
Theft, B&E, Possession, etc.	133	146	200	157
Fraud, False Pretenses	17	4	10	10
Impaired, Breathalyser, Refusal	106	161	180	176
Other Vehicle Offences	34	6	6	7
Other Criminal Codes Offences	311	395	590	549
Other Fed./Terr. Offences	117	194	177	237
Yearly totals	**1181**	**1563**	**1968**	**1909**

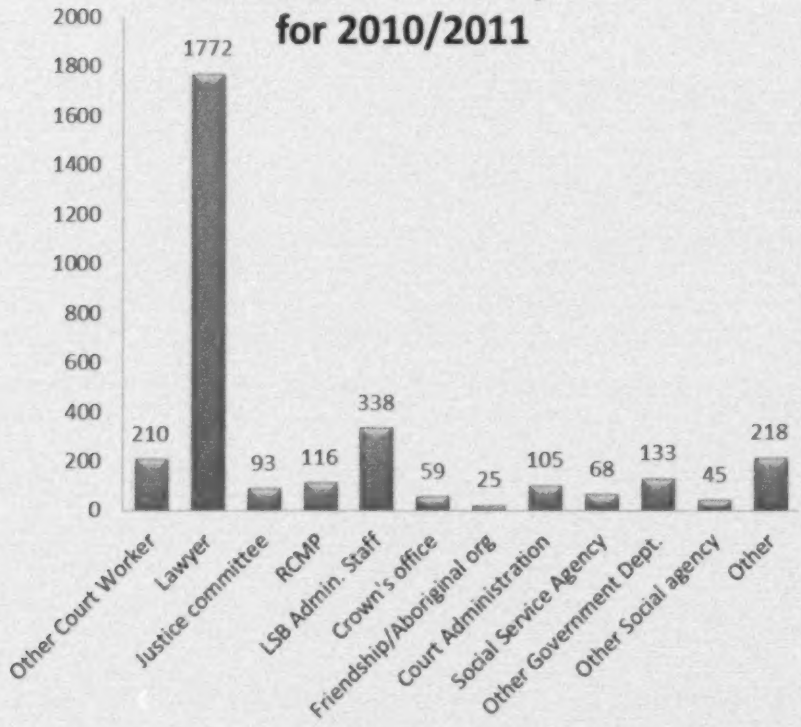
Phone calls made by detained persons that wish to exercise their right to legal advice upon arrest.

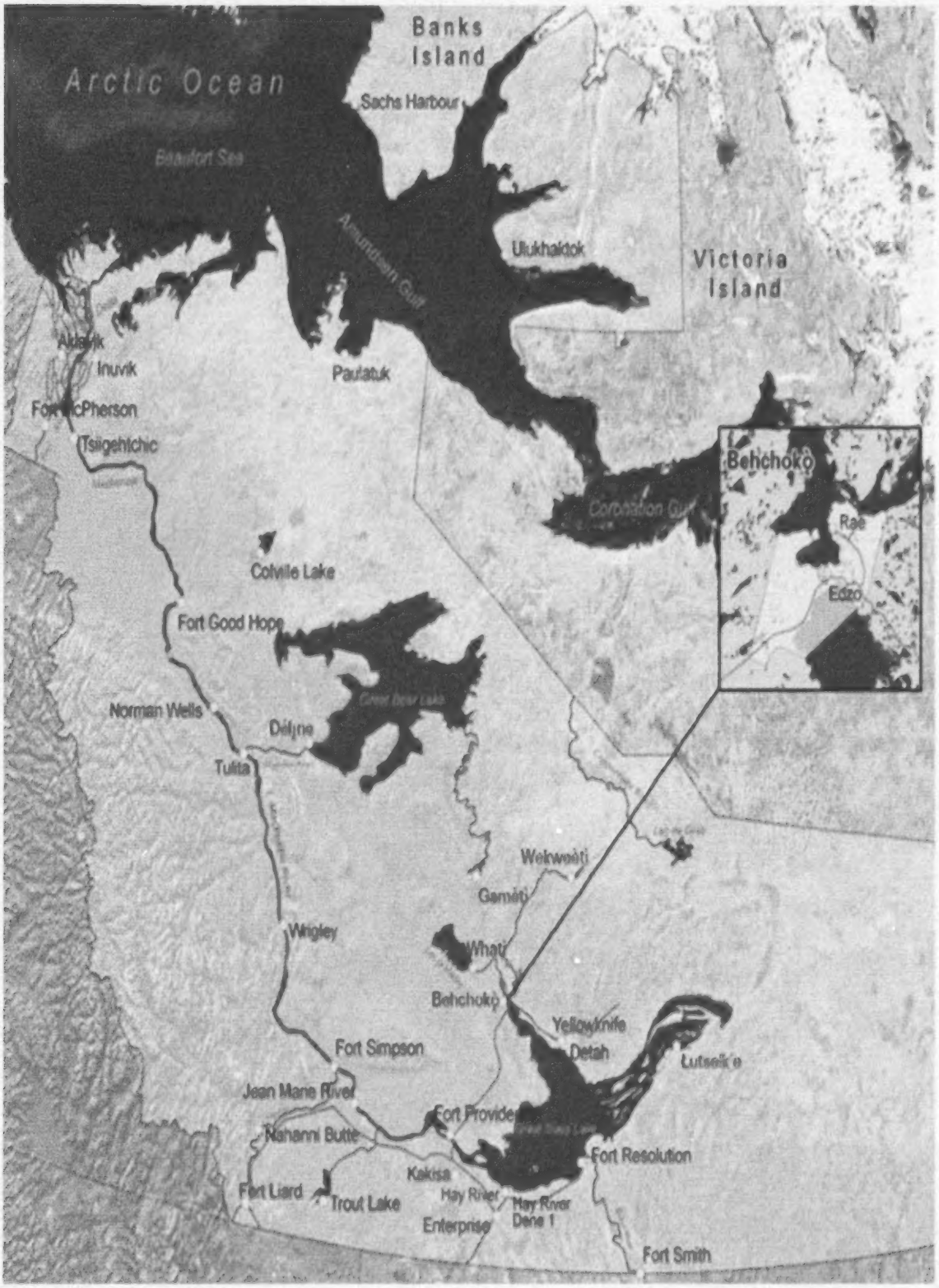
Presumed Eligibilty Statistics



	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11
Adult	2,336	270	1,998	3,216	2,755	3,346	4,067	4,409	4,081
Youth	825	532	604	1,013	788	962	756	651	580

Court Worker community referrals for 2010/2011




Arctic Ocean
Beaufort Sea
Banks Island
Sachs Harbour
Amundsen Gulf
Ulukhaktok
Victoria Island
Aklavik
Inuvik
Paulatuk
Fort McPherson
Tsiigehtchic
Coronation Gulf
Behchokǫ
Rae
Edzo
Colville Lake
Fort Good Hope
Great Bear Lake
Norman Wells
Déljne
Tulita
Wekweètì
Gamètì
Wrigley
Whatì
Behchokǫ
Yellowknife
Detah
Lutselk'e
Fort Simpson
Jean Marie River
Fort Providence
Nahanni Butte
Great Slave Lake
Fort Resolution
Kakisa
Fort Liard
Trout Lake
Hay River
Hay River Dene 1
Enterprise
Fort Smith

OFFICE LOCATIONS AND CONTACT NUMBERS

Legal Services Board of the NWT
4915 48th Street 3rd Floor, YK Centre East
P.O Box 1320
Yellowknife NT X1A 2L9
Tel: (867) 873-7450
Fax: (867) 873-5320

LAW CLINICS

Yellowknife Law Office
 # 4, 4915 – 48TH Street
3rd Floor, YK Centre East
P.O Box 11028
Yellowknife NT X1A 3X7
Tel: (867) 920-6108
Fax: (967) 873-0526

Beaufort Delta Legal Services Clinic
2nd 151 MacKenzie Road
P.O. Box 1100
Inuvik NT X0E 0TO
Tel: (867) 777-2030
Fax: (867) 777-3211

Family Law Office
8, 4915 – 48th Street
3rd Floor, YK Centre East
Yellowknife, NT X1A 3R7
Tel: (867) 920 3365
Fax: (867) 873 0652

Somba K'e Law Office
5, 4915 – 48th Street
2nd Floor, YK Centre East
Yellowknife, NT X1A 3R7
Tel: (867) 873-7964
Fax: (867) 920-6270

COURTWORKERS

South Slave Region
105 – 31 Capital Drive
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Beaufort Delta Region
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Inuvik NT X0E 0T0
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Sahtu Region
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Fort Good Hope NT X0E 0H0
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